

SITE DEVELOPMENT PERMIT

FILE NO.	H21-039
LOCATION OF PROPERTY	Eastside of North 5th Street approximately 170 feet south of Jackson Avenue (566 North 5th Street)
ZONING DISTRICT	PQP Public/Quasi-Public
GENERAL PLAN DESIGNATION	Public/Quasi-Public
PROPOSED USE	Site Development Permit to allow the installation of a six-foot-high perimeter fence and motorized vehicular gate at an existing church on an approximately 0.71-gross acre site.
ENVIRONMENTAL STATUS	Exempt Pursuant to CEQA Section 15303(e) New Construction or Conversion of Small Structures
OWNER/APPLICANT ADDRESS	Tomoko Tanaka Chairperson, Board of Trustees Wesley United Methodist Church 20025 Scotland Drive Saratoga, CA 95070

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located on the on the east side of North 5th Street, approximately 170 feet south of Jackson Avenue. The approximately 0.71-gross acre site is currently developed with a church, associated ancillary buildings, and surface parking. The site is surrounded by commercial buildings to the north, surface parking and a commercial building to the east, and a mix of single-family and multifamily residential uses to the south and west.
2. **Project Description.** This Site Development Permit would allow the installation of a six-foot-high perimeter fence and motorized vehicular gate at an existing church on an approximately 0.71-gross acre site.

The fencing would encircle the existing church property. A motorized rolling vehicular gate would be installed at the entrance to the surface parking lot along North 5th Street. The gate would be open during working hours (9:00 am to 5:00 pm) and during evening and weekend services. The gate would also remain open for special events as needed. No trees would be removed and there would be no change to the existing number of parking spaces on-site.

3. **General Plan Conformance.** The subject site has a land use designation of Public/Quasi-Public on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This category is used to designate public land uses, including schools, colleges, corporation yards, homeless shelters, permanent supportive housing, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices and airports. Joint development projects which include public and private participation - such as a jointly administered public/private research institute or an integrated convention center/hotel/restaurant complex - are allowed. This category is also used to designate lands used by some private entities, including private schools, daycare centers, hospitals, public utilities, and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses. Private community gathering facilities, including those used for religious assembly or other comparable assembly activity, are also appropriate on lands with this designation. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular Public/Quasi-Public use developed on the site.

Analysis: There would be no change to the existing church use on-site. The site would continue to function as a public/quasi-public use offering a space for religious assembly. The site and landscaping upgrades would not result in any change to the building square footage. The proposed site change would not change the ability of visitors or employees of the site to access transit options.

In addition, the project is consistent with the following General Plan policies:

Community Design Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Community Design Policy CD-5.5: Include design elements during the development review process that address security, aesthetics and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

Analysis: The project would facilitate site design upgrade with additional security measures at the perimeter of the site. The six-foot-high fence utilizes a mix of landscaping screen and fence designs to minimize the effect on the existing street presence and maintain a safe and engaging walking environment. The fencing and gate would be setback from the property line and would be well integrated with the existing development to avoid any vehicle queuing. Additionally, the gate would remain open during hours of operation and during services.

4. **Zoning Conformance.** The project conforms in all respects to the provisions of Title 20 of the San José Municipal Code, including the development standards of the PQP Public/Quasi-Public Zoning District. The project is subject to the following regulations of the Zoning Ordinance:

Development Standard	Required
Front setback	10 feet (less than 10 if established in approved development permit)
Side setback	10 feet (less than 10 if established in approved development permit)
Rear setback	10 feet (less than 10 if established in approved development permit)
Maximum height	65 feet

Analysis: As discussed above, there would be no change to the existing buildings on-site. The project would allow installation of perimeter fencing and a motorized rolling vehicular gate at the entrance to the surface parking lot. The fencing and gate would be setback a minimum of 13 feet from the front property line. The project would maintain the existing side and rear setbacks as memorialized in the previously approved Conditional Use Permit (File No. CP84-101), issued in September 1985. The maximum height of the fence and gate would be six feet. Therefore, the project would conform with the required development standards of the PQP Zoning District pursuant to Table 20-100, Section 20.40.200 of the Zoning Code.

Parking

There would be no change to the existing buildings or parking on-site. A total of 101 vehicle parking spaces are provided in the three surface parking lots on-site in conformance with the approved development permit on file (File No. CP84-101).

5. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project is exempt under Section 15303(e) for New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). All construction would be temporary and would be limited to the installation of the perimeter fencing and gate. The site is located within 500 feet of a residence. Therefore, construction hours would be limited to between 7:00 am to 7:00 pm Monday through Friday.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit, which findings are made for the Project based on the above-state findings related to General Plan, Zoning and CEQA conformance and for the reasons state below, and subject to the conditions set forth in this permit.
 - a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and area development policies; and

Analysis: As stated above, the project would be consistent with General Plan policies regarding community design, crime prevention, security and safety, and aesthetics. The project would allow the installation of perimeter fencing and a gate. There would be no change to the existing church use on-site.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As stated above, the project is consistent with all applicable development standards of the PQP Public/Quasi-Public Zoning District. There would be no change to the existing church building on-site. The gates and fencing would be setback a minimum of 13 feet from the property line. . The project would provide the required parking in conformance with Section 20.90.060 of the Zoning Code.

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The project is consistent with City Council Policy 6-30 Public Outreach Policy for Pending Land Use and Development Proposals. An on-site sign was posted on the project frontage. The project was noticed at a radius of 500 feet.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The gates and fencing would be setback a minimum of 13 feet from the property line and would be well integrated with the existing development. The gate and fencing would be aesthetically consistent with the existing buildings and landscaping on-site. The six-foot-high perimeter fencing would consist of black metal steel pickets with pedestrian gates available throughout at the front, side, and rear.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The approximately 0.71-gross acre subject site is located adjacent to a commercial and residential uses. The installation of the fencing and gate would be setback at least 13 feet from the street to avoid queuing. The metal fencing and gate would be similar in color, style, and material to existing fencing found in developments along North 5th and 6th Street. As previously discussed, the gate would remain open during hours of operation.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project is exempt under Section 15303(e) for New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). All construction would be temporary and would be limited to the installation of the gate and perimeter fencing. The site is located within 500 feet of a residence. Therefore, construction hours would be limited to between 7:00 am to 7:00 pm Monday through Friday

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The project would be limited to the installation of the gate and fencing. There would be no changes to the existing buildings on-site. The site is served by all necessary private and public utilities. The gate and fencing would be setback a minimum of 13 feet from the front property line. The gate would remain open during operating hours to avoid queueing in the street.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: The project contains adequate parking and pedestrian, bicycle, and vehicular access into the site. The gate and fencing would be setback further into the site to avoid any issues with queueing. The project would be required to provide adequate access for emergency services.

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Site Development Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Site Development Permit shall automatically expire four (4) years from and after the date of issuance hereof by the Director, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Site Development Permit Amendment plans entitled, “Wesley United Methodist Church Site Fencing and Gates” dated July 26, 2021, last revised on November 12, 2021 on file with the Department of Planning, Building and Code Enforcement (“Approved Plans”), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
7. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
8. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
9. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
10. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed

underground.

12. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
13. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly-used areas free of litter, trash, cigarette butts, and garbage.
14. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
15. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
16. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
17. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
18. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
19. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.
20. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
21. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
22. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
23. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, HA03-039-02 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card,

Form 200-14, with the City of San José Police Department.

- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Other.* Such other requirements as may be specified by the Chief Building Official.
24. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2016 California Fire Code.
25. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
- a. **Transportation:** The project is not proposing any additional units, square footage, or vehicle trips. The projected traffic for this project was reviewed and found to be minimal, therefore no further traffic analysis is required.
 - b. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures and source controls to minimize stormwater pollutant discharges.
 - c. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
 - d. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
 - e. **Street Improvements:** Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - f. **Street Trees:** Replace any missing street trees in empty tree wells or park strips along North Fifth Street and North Sixth Street and match existing trees per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Obtain a DOT street tree planting permit for any proposed street tree plantings.
26. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit Amendment was not abated, corrected or rectified within the time specified on the notice of violation; or

- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **8th day of December, 2021.**

CHRISTOPHER BURTON, Director
Planning, Building, and Code Enforcement

Deputy

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